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*Attorneys for 4202 Fort Hamilton Debt LLC*

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

In re:

4202 PARTNERS LLC,

Debtor.

Chapter 11

Case No. 20-42438 (NHL)

**4202 FORT HAMILTON DEBT LLC'S RULE 2004 MOTION FOR LEAVE  
TO PROPOUND DOCUMENT REQUESTS TO 4202 PARTNERS LLC**

Pursuant to Federal Rule of Bankruptcy Procedure 2004, 4202 Fort Hamilton Debt LLC ("Fort Hamilton Debt"), through its undersigned counsel, respectfully moves the Court for an Order authorizing Fort Hamilton Debt to propound to Debtor 4202 Partners LLC ("4202 Partners") document requests substantially in the form attached hereto as **Exhibit A** and requiring 4202 Partners to produce documents responsive thereto within fourteen (14) days of service. In support of this motion, Fort Hamilton Debt states as follows:

1. Federal Rule of Bankruptcy Procedure 2004 authorizes the Court to order the examination of a debtor at any time or place the Court designates. The scope of such examination is governed by Rule 2004(b), which provides, in relevant part, that:

The examination of an entity under this rule . . . may relate only to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect administration of the debtor's estate. . . . In . . . a reorganization case under chapter 11 of the Code, other than for the reorganization of a railroad, the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of confirming a plan and the consideration given or offered therefor, and any other matter relevant to the case or to the formulation of a plan.

2. “The scope of a Bankruptcy Rule 2004 examination is ‘unfettered and broad,’” and it “has been likened to a quick ‘fishing expedition’ into general matters and issues regarding the administration of the bankruptcy case.” *In re Bakalis*, 199 B.R. 443, 447 (Bankr. E.D.N.Y. 1996) (quoting *In re GHR Energy Corp.*, 33 Bankr. 451, 453 (Bankr. D. Mass. 1983)); *see also In re Coffee Cupboard, Inc.*, 128 B.R. 509, 514 (Bankr. E.D.N.Y. 1991) (collecting cases); *In re Handy Andy Home Improvement Ctrs., Inc.*, 199 B.R. 376, 380 (Bankr. N.D. Ill. 1996) (“The scope of inquiry under Bankruptcy Rule 2004 is very broad. Great latitude of inquiry is ordinarily permitted.”).

3. Here, Fort Hamilton Debt indisputably is a creditor with a substantial claim against 4202 Partners and is a creditor or, at an absolute minimum, a party in interest in the bankruptcy cases of 4218 Partners LLC and 4202 Ki Tov LLC. As such, Fort Hamilton Debt has a valuable and important interest in the administration of these bankruptcy cases, the various debtors’ motives for filing these bankruptcy cases and their prospects for success (or lack thereof), the truth and accuracy of the various debtors’ representations to this Court regarding their efforts and expectations with respect to their potential reorganization, and the various debtors’ compliance (or lack thereof) with their respective obligations under the Bankruptcy Code in the meantime.

4. Each of the document requests on the attached is narrowly tailored to investigate topics that fall within the scope and purpose of Rule 2004. For example, the requests seek documents and communications relating to: prospective tenants; investments made in the

development of the real property at issue; the submission, progress, and approval of applications, permits, and building plans before relevant New York agencies; agreements or outlines of agreements between 4202 Partners, other debtors, and their principals; efforts by 4202 Partners and the other debtors to obtain financing to develop the real property at issue; the valuation of the real property at issue; 4202 Partners' ability to pay administrative expenses in this bankruptcy case, payroll, and other postpetition obligations, such as outstanding real property taxes; information regarding 4202 Partners' schedules and statement of financial affairs; and details regarding 4202 Partners' apparent transfer of its air rights to 4218 Partners.

5. It is plain from the Court's docket in this bankruptcy case and in those dockets in the cases of the other alleged "affiliate" debtors, as well as from the parties' and the Court's discussions during several hearings, that each of the foregoing categories of inquiry relate to one or more of the acts and financial condition of 4202 Partners, matters that will affect the administration of 4202 Partners' estate, the sources of money for purposes of confirming a plan, and to 4202 Partners' and the other debtors' efforts and ability to reorganize in this case.<sup>1</sup> As such, the requests are well within the scope of Rule 2004.

6. Accordingly, the Court should grant this motion, enter an Order authorizing Fort Hamilton Debt to serve upon 4202 Partners document requests substantially in the form attached hereto as **Exhibit A**, require 4202 Partners to produce responsive documents within fourteen (14) days of service, and grant Fort Hamilton Debt such other relief as the Court deems proper.

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<sup>1</sup> Many of the document requests are directed toward express representations made to this Court by 4218 Partners, the other debtors, and their counsel. Fort Hamilton Debt should be entitled to investigate the truth and accuracy of those representations, particularly given that 4218 Partners and the other debtors have made representations to this Court without documentary evidence to support the various assertions made by their counsel, including as to the hopeful viability of their reorganization.

Dated: October 7, 2020  
New York, New York

SEYFARTH SHAW LLP

By: /s/ M. Ryan Pinkston

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*Attorneys for 4202 Fort Hamilton Debt LLC*

# **EXHIBIT A**

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**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

In re:

4202 PARTNERS LLC,

Debtor.

Chapter 11

Case No. 20-42438 (NHL)

**4202 FORT HAMILTON DEBT LLC'S FIRST SET OF REQUESTS  
TO 4202 PARTNERS LLC FOR PRODUCTION OF DOCUMENTS**

Pursuant to Federal Rule of Bankruptcy Procedure 2004, 4202 Fort Hamilton Debt LLC ("Fort Hamilton Debt LLC"), through its undersigned counsel, hereby requests that Debtor 4202 Partners LLC ("4202 Partners"), in accordance with the following instructions, produce to Jerry Montag, Seyfarth Shaw LLP, 620 8th Avenue, New York, New York 10018, the documents described below for inspection and copying within fourteen (14) days of service hereof

**INSTRUCTIONS**

1. Documents and communications shall be produced as they are kept in the ordinary course of business or must be organized and labeled to correspond to the document categories set forth below.

2. Electronically stored information, including electronic mail, text messages, and other electronic communications, shall be produced in its native format.

3. If any document or communications is withheld from production on the basis of a claim of privilege, each such document and communication shall be set forth on a log expressly asserting such claim of privilege and be accompanied by a description of the nature of the withheld document or communication in a manner that will enable the parties to assess the claim.

### **DOCUMENT REQUESTS**

1. Documents and communications, including letters of intent, terms sheets, draft or final lease agreements, relating to any prospective tenants for 4202 Fort Hamilton Parkway, Brooklyn, New York 11219.

2. Documents and communications, including letters of intent, terms sheets, draft or final lease agreements, relating to any prospective tenants for 4218 Fort Hamilton Parkway, Brooklyn, New York 11219.

3. Documents and communications relating to 4202 Partners' and its affiliates' and their principals' financial investments in the development of the parcel of real property located at 4202 Fort Hamilton Parkway, Brooklyn, New York 11219.

4. Documents and communications relating to 4202 Partners' and its affiliates' and their principals' financial investments in the development of the parcel of real property located at 4218 Fort Hamilton Parkway, Brooklyn, New York 11219.

5. Documents and communications reflecting the membership interests and voting interests in 4202 Partners.

6. Documents and communications relating to any parking application, whether denied, approved, or pending, with respect to the parcel of real property located at 4202 Fort Hamilton Parkway, Brooklyn, New York 11219.

7. Documents and communications relating to any parking application, whether denied, approved, or pending, with respect to the parcel of real property located at 4218 Fort Hamilton Parkway, Brooklyn, New York 11219.

8. Documents and communications relating to any building plans, including any draft, original, or revised plans, with respect to the parcel of real property located at 4202 Fort Hamilton Parkway, Brooklyn, New York 11219.

9. Documents and communications relating to any building plans, including any draft, original, or revised plans, with respect to the parcel of real property located at 4218 Fort Hamilton Parkway, Brooklyn, New York 11219.

10. Documents and communications relating to the filing and/or acquisition of any permits with respect to the parcel of real property located at 4202 Fort Hamilton Parkway, Brooklyn, New York 11219.

11. Documents and communications relating to the filing and/or acquisition of any permits with respect to the parcel of real property located at 4218 Fort Hamilton Parkway, Brooklyn, New York 11219.

12. Documents and communications relating to any agreement, or outline or any terms of any agreement, between and among 4218 Partners LLC, 175 Pulaski RLM LLC, 4202 Ki Tov LLC, 4202 Partners, Samuel Pfeiffer, Dina Krausz, and/or Joseph Fischman.

13. Documents and communications relating to the allocation of interests between 4202 Partners, 4218 Partners LLC, and/or any other entity or person with respect to a proposed development at 4202 Fort Hamilton Parkway and 4218 Fort Hamilton Parkway, Brooklyn, New York 11219.

14. Documents and communications relating to the financing of the development of the parcel of real property located at 4202 Fort Hamilton Parkway, Brooklyn, New York 11219, including, without limitation, email correspondence, text messages, term sheets, letters of intent, commitments, statements regarding the availability of financing, and/or communications and/or term sheets exchanged with Adam Nagin, JJAM Capital LLC, or any other potential lenders or brokers.

15. Documents and communications relating to the financing of the development of the parcel of real property located at 4218 Fort Hamilton Parkway, Brooklyn, New York 11219, including, without limitation, email correspondence, text messages, term sheets, letters of intent, commitments, statements regarding the availability of financing, and/or communications and/or term sheets exchanged with Adam Nagin, JJAM Capital LLC, or any other potential lenders or brokers.

16. Documents and communications relating to the value of the parcel of real property located at 4202 Fort Hamilton Parkway, Brooklyn, New York 11219, from November 2017 to present.

17. Documents and communications relating to the value of the parcel of real property located at 4218 Fort Hamilton Parkway, Brooklyn, New York 11219, from November 2017 to present.

18. Documents and communications regarding 4202 Partners' payment of administrative expenses incurred in this bankruptcy case.

19. Documents and communications regarding 4202 Partners' payment of its bookkeeper or any other employees 4202 Partners may have.

20. Documents and communications relating to 4202 Partners' omission of Samuel Pfeiffer from 4202 Partners' Schedule H filed at Docket No. 1 in 4202 Partners' bankruptcy case.

21. Documents and communications relating to 4202 Partners' omission of Dina Krausz from 4202 Partners' Schedule H filed at Docket No. 1 in 4202 Partners' bankruptcy case.

22. Documents and communications relating to the statement in Debtor's Declaration Pursuant to Local Bankruptcy Rule 1007-4 filed at Docket No. 1-1 in 4202 Partners' bankruptcy case that 4218 Partners LLC and 175 Pulaski RLM LLC are "the Debtor's affiliates."

23. Documents and communications relating to Snap Developers' payment of attorneys' fees on behalf of 4202 Partners, as reflected in Part 6, No. 11.1 of 4202 Partners' Statement of Financial Affairs filed at Docket No. 12 in 4202 Partners' bankruptcy case.

24. Documents and communications relating to the architect who prepared plans for the development of the real property at issue, including, without limitation, the retention and payment of such architect.

25. Documents, including contracts and invoices, and also communications relating to the claim of Snap Developers scheduled by 4218 Partners LLC in its bankruptcy case.

26. Documents and communications relating to contingencies, such as approvals by and permits obtained from city agencies, that 4202 Partners expects to resolve with respect to its reorganization in this bankruptcy case.

27. Documents and communications relating to 4202 Partners' tax obligations and payment of outstanding postpetition taxes.

28. Documents and communications relating to the transfer to 4218 Partners LLC of any assets or interests belonging to 4202 Partners from June 25, 2018 to present.

29. Documents and communications relating to 4218 Partners LLC's acquisition of, including any consideration or value exchanged for, "a collection of air rights from nearby properties" in November 2018, as stated in the Local Rule 1007-4 Declaration filed by 4218 Partners LLC in its bankruptcy case (Case No. 19-44444) at Docket No. 15.

30. Documents and communications relating to the retention of an expeditor, Ronny Livian, and the sources of his compensation.

31. Documents and communications relating to the retention of Tony Daniels, R.A., as identified in correspondence filed with the Court on September 30, 2020, in the bankruptcy case of 4202 Partners.

32. Documents and communications exchanged between and among 4218 Partners LLC, 175 Pulaski RLM LLC, 4202 Ki Tov LLC, 4202 Partners, Samuel Pfeiffer, Dina Krausz, and/or Joseph Fischman relating to any of the foregoing entities' bankruptcy cases and/or the development of real property located at 4202 Fort Hamilton Parkway, Brooklyn, New York 11219, and/or 4218 Fort Hamilton Parkway, Brooklyn, New York 11219.

Dated: \_\_\_\_\_, 2020  
New York, New York

SEYFARTH SHAW LLP

By: \_\_\_\_\_

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*Attorneys for 4202 Fort Hamilton Debt LLC*

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 7, 2020, a true and correct copy of the foregoing **4202 Fort Hamilton Debt LLC's Rule 2004 Motion for Leave to Propound Document Requests to 4202 Partners LLC** was caused to be served via the Court's CM/ECF system on all parties registered to receive electronic notice in this case.

/s/ M. Ryan Pinkston  
M. Ryan Pinkston

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